THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Criminal Misc. Application No. 907 of 2005 (S/J)

1. Kapil Kumar S/O Ram Saran
2. Kanhaya, S/O Ram Saran
   Both residents of Dargahpur, P.S.Laksar
   District Haridwar.

… **Applicants.**

Versus

1. State of Uttaranchal..
2. Shiv Kumar, S/O Babu Ram, R/O Dargahpur
   P.S. Laksar, District Haridwar/

… **Respondents.**

Sri Sanjeev Singh, Adv.,learned counsel for the petitioner.
Sri P.S. Saun, Learned Standing Counsel for the respondent no. 1.

Dated December 15, 2005.

PC:
(Hon'ble B.S. Verma, J.)

This application has been filed under Section 482 of the Code of Criminal Procedure against the order dated 13-12-2005 passed by the Judicial Magistrate, Laksar, district Haridwar in Criminal Case No. 501 of 2005, State Vs. Kapil Kumar and others, arising from Crime No. 169 of 2005, under Sections 323, 324, 504, 325, 308 I.P.C. of P.S. Laksar (Hardwar), whereby the application of the accused-applicants was rejected and they were directed to surrender before the Court for the offences under Sections 325 and 308 I.P.C. before seeking bail on merits.

2. Relevant facts are that a First Information Report was lodged against the applicants by the respondent no. 2 on 30-09-2005 for the offences under Sections 3234, 324 and 504 of the I.P.C. and the case was registered at Crime No. 169 of 2005. During the investigation of the case, the accused obtained bail in respect of the alleged offences.

3. Thereafter the Investigating Officer submitted charge sheet against the accused-applicants under Sections 323, 324, 325,

504 and 308 I.P.C. The applicants moved application before the Magistrate contending that they have already been granted bail on 7-10-2005 for the offences under Sections 323, 324 and 504 I.P.C. before submission of charge-sheet and they be given liberty to file bail bonds in respect of the charge-sheet under Sections 325 and 308 I.P.C. After perusing the record, the learned Magistrate relying upon the Apex Court judgment in the case of Kamal Kapoor Vs. Sachin Karta Singh and others [2001(3) Crimes, 308] observed that in case of additional charges, the bail should be granted on merits after surrender of the accused. Accordingly, the learned Magistrate vide order dated 13.12.2005 rejected the application of the accused-applicants and they were directed to surrender before the Court and then to file application for regular bail to be decided on merits.

4. Aggrieved by the aforesaid order, the applicants have come up before this Court for a direction to the court concerned that the applicants be released on the same application, which they have already filed before the court below.

5. It is well settled that once the accused has been granted bail in a criminal case, he need not file fresh bail application in respect of added Section which though seems to be graver than the offence under which he was granted bail earlier.

6. I, therefore, allow the petition with a direction to the court concerned to permit the applicants to furnish fresh surety bonds without requiring them to file fresh bail application.

7. The petition is accordingly disposed of.

(B.S. Verma, J.)

RCP